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CLERK U S DISTRICT COURT	
DISTRICT OF ARIZONA	
BY	P DEPUTY

1 James Will Bonham  
 2 6740 West Deer Valley Road, D107  
 3 Glendale, Arizona [85310]  
 4 Jbonham16@cox.net  
 5 *pro se*

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 7  
 8 FILE ON DEMAND  
 9 FOR THE RECORD

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 11  
 12 UNITED STATES DISTRICT COURT  
 13 DISTRICT OF ARIZONA

14 James Will Bonham, an individual,

15 Case No. — CV-15-593-PHX-MHB —

16 Plaintiff, *pro se*

17  
 18 COMPLAINT  
 19 FOR RELIEF

20 vs.  
 21 PENN CREDIT CORPORATION, a  
 22 corporation, *et al*

23 Defendant(s).

24 TRIAL BY JURY DEMANDED

25  
 26 **COMPLAINT FOR RELIEF OF VIOLATIONS OF THE TELEPHONE CONSUMER**  
 27 **PROTECTION ACT AND FAIR DEBT COLLECTION PRACTICES ACT**

28  
 29 **NATURE OF THE ACTION**

- 30  
 31 1. This is a complaint for money damages.  
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 33 2. Defendant has violated the Telephone Consumer Protection Act (“TCPA”).  
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 35 3. Defendant has violated the Fair Debt Collection Practices Act (“FDCPA”).

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 37 **PARTIES**

- 38  
 39 4. The Plaintiff in this lawsuit is James Will Bonham, a natural person. Plaintiff is a  
 40 consumer and a citizen of Maricopa County, Arizona.

5. The Defendant in this lawsuit is PENN CREDIT CORPORATION, ("PCC"), a debt collection company with offices at 916 S. 14<sup>th</sup> Street, Harrisburg, Pennsylvania, 17104, and doing business in Arizona.

## **JURISDICTION AND VENUE**

6. Jurisdiction of this Court arises under 47 U.S.C. §227(b)(3), 15 U.S.C. § 1692k(d), and 28 U.S.C. § 1331.

7. All conditions precedent to the bringing of this action have been performed.

8. Venue is proper pursuant to 28 U.S.C. §1331(b). Venue in this District is proper in that Plaintiff resides here, Defendant engages in and transacts business here, and all of the conduct and events complained of occurred here.

## BACKGROUND

9. On or about 13-April-2013, Plaintiff registered his phone number on the National Do Not Call Registry. (Exhibit "A")

10. On or about 2-February-2015, through approximately 16-February-2015, Defendant called the Plaintiff's residential phone number 623-341-4881 (Exhibit "B"), on a minimum of four (4) occasions, from phone number identified as 800-900-1370, (Exhibit "C"), which is a number known to be used by PCC in their debt collection operations.

11. Defendant's automated system recorded a voicemail message on Plaintiff's account.

12. PCC called Plaintiff's residential phone without Plaintiff's consent, express or otherwise, or for emergency purposes.

3. All calls made by Defendant were made with automatic telephone dialing system (ATDS) capable equipment to Plaintiff's residential phone.

- 1 14. Plaintiff has never had a business relationship with Defendant at any time and has never  
2 given PCC his express consent to call his residential phone.
- 3 15. Plaintiff has attempted to settle this matter privately, however, Defendant has not  
4 responded to Plaintiff's writings dated March 3, 2015 and March 17, 2015 (Exhibit  
5 "D"), respectively.
- 6

7 **CAUSES OF ACTION**

8 **COUNT I**  
9 **VIOLATIONS OF THE TELEPHONE**  
10 **CONSUMER PROTECTION ACT 47 U.S.C. §227(b)(1)(B)**

- 11 16. Plaintiff alleges and incorporates the information in paragraphs 1 through 15.
- 12 17. Defendant has violated the TCPA at 47 U.S.C. §227(b)(1) by using an automatic  
13 telephone dialing system ("ATDS") that has the capacity to store or produce telephone  
14 numbers as described at 47 USC § 227(a)(1) to call the Plaintiff's residential phone.
- 15 18. Defendant has further exhibited non-compliance with the TCPA by calling the Plaintiff's  
16 phone number, which is assigned to a residential telephone service contrary to 47 U.S.C.  
17 §227(b)(1)(B) which states in part;  
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19 (1) PROHIBITIONS.—it shall be unlawful for any person within the United States or  
20 any person outside the United States if the recipient is within the United States—  
21  
22 (B) To initiate any telephone call to any residential telephone line using an artificial  
23 or prerecorded voice to deliver a message without the prior express consent of  
24 the called party, unless the call is initiated for emergency purposes or is  
25 exempted by rule or order by the Commission under paragraph (2)(B);"

26 WHEREFORE, Plaintiff prays for relief and judgment as follows:

- 27 a. Adjudging that PCC violated the TCPA at 47 U.S.C. § 227.  
28 b. Awarding Plaintiff statutory damages pursuant to 47 U.S.C. § 227 (b)(3)(B)  
of \$500 for each call made to the Plaintiff's wireless phone, \$2000.00;

- c. Awarding Plaintiff any fees and costs incurred in this action;
  - d. Awarding such other and further relief as the Court may deem just and proper pursuant to the discretion allowed at 47 U.S.C. § 227 (b)(3), including Defendant's actions were willful or knowing and award treble damages, or otherwise.

**COUNT II**

**DEFENDANT'S VIOLATIONS OF THE TELEPHONE  
CONSUMER PROTECTION ACT 47 U.S.C. §227(c)(5)**

19. Plaintiff alleges and incorporates the information in paragraphs 1 through 18.

20. Defendant's actions clearly demonstrate non-compliance with 47 U.S.C. §227(c)(5) by calling the Plaintiff's phone number, more than once during a 12 month period.

21. Plaintiff brings forth this action pursuant to 47 U.S.C. §227(c)(5) which states in part:

15 (5) PRIVATE RIGHT OF ACTION.—A person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations prescribed under this subsection may, if otherwise permitted by the laws or rules of court of a State bring in an appropriate court of that State—

18 (A) an action based on a violation of the regulations prescribed under this subsection to enjoin such violation,

20 (B) an action to recover for actual monetary loss from such a violation, or to receive up to \$500 in damages for each such violation, whichever is greater, or

22 (C) both such actions.

(and) "...If the court finds that the defendant willfully or knowingly violated the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph."

WHEREFORE, Plaintiff prays for relief and judgment as follows:

- a. Adjudging that PCC violated the TCPA at 47 U.S.C. § 227.

- b. Awarding Plaintiff statutory damages pursuant to 47 U.S.C. § 227(c)(5) of \$500 for each and every call following the first call made to the Plaintiff's residential phone, \$1500.00;
  - c. Awarding Plaintiff any fees and costs incurred in this action;
  - d. Awarding such other and further relief as the Court may deem just and proper pursuant to the discretion allowed at 47 U.S.C. § (c)(5), including Defendant's actions were willful or knowing, and award treble damages, or otherwise.

**COUNT III**  
**VIOLATIONS OF THE FAIR DEBT COLLECTION**  
**PRACTICES ACT, 15 U.S.C. § 1692(d)**

22. Defendant placed a telephone call to Plaintiff without disclosing his/her identity, therefore violating the FDCPA at 15 U.S.C. § 1692 d(6).

WHEREFORE, Plaintiff prays for relief and judgment as follows:

- a. Adjudging that PCC violated the FDCPA.
  - b. Awarding Plaintiff statutory damages pursuant to 15 U.S.C. § 1692k, in the amount of \$1000;
  - c. Awarding Plaintiff any fees and costs incurred in this action;
  - d. Awarding such other and further relief as the Court may deem just and proper

## CONCLUSION

Plaintiff seeks monetary damages for violations of the TCPA in the amount of the statutory minimums, \$3,500.00. However, should the Court at its discretion determine willful

1 and knowing behavior of the Defendant regarding TCPA violations, Plaintiff seeks treble  
2 damages. Plaintiff further seeks minimum statutory damages of \$1000 for FDCPA violations.  
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**RESERVATION OF RIGHTS**

5 Plaintiff reserves all rights for actual damages that have occurred or that discovery may bear as  
6 witness, including but not limited to, Defendant's telephone system records which may reveal  
7 additional unauthorized calls and violations caused when Defendant initiated calls to Plaintiff's  
8 phone. All Rights Reserved.  
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**DEMAND FOR TRIAL BY JURY**

11 Plaintiff hereby demands a trial by jury of all issues so triable as a matter of law.  
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14 Date: April 2, 2015  
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Respectfully Submitted,

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19 James Will Bonham, Plaintiff  
pro se  
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